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Human Rights Council
Twenty-eighth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by the AUA Americas Chapter Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03452 (E)
1503452

Please recycle

Escalating Persecution of Iraq's Indigenous Assyrians Demands Greater Attention from the Human Rights Council[1]

By Rosemary Youhana and Alen Mirza[2]

I. Persecution of Assyrians by the So-Called Islamic State

1. On June 7, heavy fighting between the Iraqi Security Forces (ISF) and the so-called Islamic State (IS) erupted in Mosul, Iraq's second largest city. The subsequent mass displacement has created a humanitarian crisis and has left thousands of IDPs without access to water, healthcare and adequate shelter. Iraq's indigenous Assyrian Christians and other minorities remain largely defenseless in what is evolving into a regional sectarian conflict. On July 17, the so-called Islamic State issued a citywide statement declaring that all remaining Christians in Mosul had until July 19 to either convert to Islam, pay a fine, or die. Consequently, Mosul has been nearly emptied of its Assyrian Christian population.[3] On August 7, 2014, IS militants seized control of the predominantly Assyrian villages of Qaraqosh, Tel Keppe, Bartella, and Karamlish in the Nineveh Plain, prompting a majority of their residents to flee their ancestral homes.[4] IS's advances into the Nineveh Plain region left its Assyrians fearing for their lives and as such, caused a mass migration into the KRG region of over 200,000 people.[5]

2. In the past, such mass displacement of minorities from Mosul often resulted with Assyrians representing a disproportionately large number of Iraqi refugees in neighboring countries. In 2011, Christians made up 52 percent of new UNHCR-registered Iraqi refugees in Turkey[6] and more than half of new UNHCR-registered Iraqi refugees in Lebanon.[7] The statistic is alarming when considering that the community represented just 3 percent of Iraq's population before 2003. Furthermore, while Assyrians were believed to number 1.4 million before the 2003 invasion, current estimates place the community at less than half that size.[8] Essentially, aside from the evidence that the current Government of Iraq is unwilling and/or incapable of protecting its non-Muslim and indigenous communities, especially the Christians, there is a very strong likelihood that Christianity as whole will be completely "cleansed" from Iraq and Syria, and quite possibly the Middle East region.

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[1] AUA Americas works to reform laws, policies, and practices that affect the rights of Assyrian people in their ancestral homeland. For more information, please visit www.auaamericas.org.

[2] Rosemary Youhana serves as AUA Americas' Global Policy Associate. Alen Mirza serves as AUA Americas' Global Policy Director.

[3] "Iraq Christians get Islamic State's warning." *Al Jazeera English*, July 19, 2014, http://www.aljazeera.com/news/middleeast/2014/07/iraq-christians-told-convert-face-death-201471811040982432.html (accessed February 14 2015).

[4] "From Crisis to Catastrophe: the situation of minorities in Iraq." Minority Rights Group International, October 2014, www.minorityrights.org/download.php@id=1468 (accessed February 14, 2015).

[5] Id.

[6] Mid-Year Review of the Regional Response Plan for Iraqi Refugees 2012, United Nations Office for the Coordination of Humanitarian Affairs, September 10, 2012, 115 https://docs.unocha.org/sites/dms/CAP/MYR_2012_Iraq_RRP.pdf (accessed March 14, 2014).

[7] Id. at 76.

[8] Annual Report 2013, United States Commission on International Reli Egious Freedom, April 2013, 88, http://www.uscirf.gov/sites/default/files/resources/2013%20USCIRF%20Annual%20Report%20(2).pdf

II. Abuses Recognized by UN Human Rights Bodies

3. The ongoing persecution faced by Iraq's Assyrians has not gone unnoticed, as many governments, NGOs, and UN treaty bodies have expressed deep distress for the future of this community. In its most recent Concluding Observations of Iraq, the UN Committee on the Elimination of Racial Discrimination (CERD) expressed serious concern about the emergence of sectarian insurgency targeting Assyrians, their holy sites, and businesses, particularly in the Nineveh Plain.[9] The Committee also recognized the alarming decrease in the population of Iraq's Assyrians falling to nearly one third of its pre-2003 population.[10] In light of the particular challenges faced by Iraq's minority populations, the Committee issued a rare Early Warning Decision urging the "UN Secretary General and Security Council for the deployment of UN Peacekeeping forces to the Nineveh Plain to establish a safe zone for the return and protection of displaced persons traditionally living in that area."

4. In 2015, the Committee on the Rights of the Child also expressed deep concern at the current situation faced by Assyrian Christian children and families, who have been subjected to a number of systematic human rights abuses by ISIL, including murder, torture, rape, and forced conversion to Islam. In one paragraph, the Committee expressed its "deepest concern at the deplorable situation of children and families belonging to minority groups, in particular [...] Christians [...] Assyrians [...] who are systematically killed, tortured, raped, forced to convert to Islam, cut off from humanitarian assistance by the so-called ISIL in a reported attempt by the so-called ISIL members to suppress, permanently cleanse or expel, or in some instances, destroy these minority communities."[11] The Committee, in addition to finding the so-called ISIL responsible for such policies, also holds the Republic of Iraq accountable for a legacy of impunity, which stems from the inability or unwillingness to take legal recourse against ISIL. [12]

III. Recommendations to the Special Rapporteur on Minority Issues

5. In light of these attested abuses, AUA Americas respectfully urges the Special Rapporteur on Minority Issues to address the various human rights concerns currently facing Iraq's ethnic, religious and linguistic minorities by exercising the authority of her mandate to conduct a country visit in Iraq and issue an independent evaluation of the situation of minorities living in that country. The Special Rapporteur addressed a number of issues in the report on her country visit to the Ukraine, and draws particular attention to the

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[9] United Nations, Committee on the Elimination of Racial Discrimination. "Concluding observations on the combined fifteenth to twenty-first periodic reports of Iraq." September 22, 2014. http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsl%2fyrM1B9TT0oGmEKg0FjIEwMF9bGJy499K02CASWN9%2bc3BPhhEahd628Y9jRSy39DiAbJT369VFyTJ8uBlEE3L5%2fpg6XZS2bBuWmI8bHXrsphx28HUM0oROBp4Fd6CwlQ%3d%3d (accessed February 14, 2015.)

[10] Id.

[11] United Nations, Committee on the Elimination of Racial Discrimination. Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures, Iraq. Decision 1, 85th Session. August 11-29, 2014. http://www.ohchr.org/Documents/HRBodies/CERD/EarlyWarning/early-warningDecisionIraq.pdf (accessed February 15, 2014).

[12] United Nations, Committee on the Rights of the Child. "Concluding observations on the combined second to fourth periodic reports of Iraq." February 4, 2015. http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRQ/CRC_C_IRQ_CO_2-4%20ADVANCE%20UNEDITED%20VERSION_19495_E.doc (accessed February 14, 2015.)

dire situation of the ethno-religious Crimean Tatar minority. Not unlike this group, the Assyrian Christian minority of Iraq has faced comparable persecution and impunity. For the following reasons, a country visit to Iraq, pursuant to her mandate, will prove both feasible in execution and necessary in better identifying and addressing specific human rights concerns:

6. First, pursuant to Iraq's initial Universal Periodic Review in 2010, the Government of Iraq issued a standing invitation to all Human Rights Council Special Procedures.[13] Since issuing the standing invitation, the Special Rapporteur on the Human Rights of Internally Displaced Persons and the Working Group on Mercenaries have both carried-out country visits in Iraq, illustrating the government's willingness to genuinely participate in the UN's special procedures mechanism. To date, no Special Rapporteur on Minority Issues has conducted a country visit in the Middle East nor requested a country visit in any part of the Arab World.[14]

7. Second, the several UN bodies currently present in Iraq provide the necessary support to successfully carry out the objectives of a country visit. The integrated and statewide presence of the United Nations Assistance Mission in Iraq (UNAMI) allows for facilitated access to government officials and information, while specialized UN agencies such as the UN High Commissioner on Refugees and the Office for the Coordination of Humanitarian Affairs provide a comprehensive analysis of particular human rights concerns affecting Iraqi minorities.

8. Lastly, the recent war and subsequent political unrest in Iraq has disproportionately affected Iraq's minority groups. A 2014 UNAMI report states, "Members of Iraq's diverse religious, cultural and ethnic minority groups have come under direct attack by ISIL and associated armed groups – particularly non Sunni populations."[15] Many expert commentators have expressed concerns that these populations are losing viability and visibility in the socio-political spectrum within Iraq, and that their populations may not be able to recover from the current state of affairs.

9. The needs of the ethnic, religious and linguistic minorities in Iraq reflect the thematic priorities of the Special Rapporteur's mandate, specifically in the context of promoting social inclusion and ensuring stable societies. It is pertinent for Iraq, and for the work of the Human Rights Council, that timely evaluation of human rights challenges facing Iraq's minorities takes place before the damage being done escapes any repairs that the international community can provide.

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[13] www.ohchr.org/EN/HRBodies/SP/Pages/Invitations/aspx

[14] www.ohchr.org/EN/Issues/Minorities/IExpert/Pages/visits.aspx

[15] United Nations, United Nations Assistance Mission for Iraq. "Report on the Protection of Civilians in the Non International Armed Conflict in Iraq. 5 June – 5 July 2014. http://www.ohchr.org/Documents/Countries/IQ/UNAMI_OHCHR_POC%20Report_FINAL_18July2014A.pdf (accessed 15 February 2015).

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Human Rights Council
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Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Article 19 - The International Centre Against Censorship, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

ARTICLE 19 calls for reforms to the Criminal Code of Kazakhstan to protect the rights to freedom of expression and peaceful assembly

ARTICLE 19 is concerned that the new Criminal Code of Kazakhstan, which entered into force on 1 January 2015 following a two-year reform process, significantly restricts the space for freedom of expression and freedom of peaceful assembly. The Criminal Code violates guarantees for these rights contained in the International Covenant on Civil and Political Rights (ICCPR), which Kazakhstan has ratified.

In particular, we call on the Government of Kazakhstan to:

- Repeal the criminal offence of "dissemination of knowingly false information" (Article 274);
- Repeal criminal defamation (Article 130);
- Repeal the criminal offence of "insult" (Article 131) and insult of the President and other public authorities (Articles, 373, 375, 376, 378);
- Amend the criminal offences of "incitement of social, national, ethnic, racial, class or religious hatred (Article 174) and related crimes (in particular, Article 183)
- Repeal the offence of "violation of the order of organization and conduction of assemblies, rallies, marches, pickets and demonstrations" (Article 400);
- Amend the law "on the organisation and conduction of peaceful assemblies, rallies, marches, pickets and demonstrations" to bring it in line with international standards.

Freedom of Expression

Dissemination of False Information: the new Criminal Code introduced Article 274, "knowingly disseminating false information that creates a risk of public disorder or substantial harm to the rights and legitimate interests of citizens or organisations or the legally protected interests of society or the state." The maximum punishment under this Article, if committed by an individual, is correctional labour or imprisonment for up to one year. However, if committed by a group of people, by a person using his office, or with the use of mass media or information communication networks, it is punishable by between two and five years of imprisonment or a fine.

The provision does not meet the requirement under international law that restrictions on freedom of expression be formulated with sufficient precision to be understandable, so that people can regulate their conduct accordingly. Article 274 does not explain what is meant by "knowingly false information" and does not differentiate facts and value judgments; it allows for subjective interpretation that is open to abuse to suppress legitimate expression that the authorities simply disagree with. Such broad restrictions are not necessary in a democratic society, and the available sanctions are severe and disproportionate considering that legitimate or relatively harmless speech could be punished under this provision.

Criminal Defamation: defamation is retained under Article 130 of the new Criminal Code as a "publicly dangerous" form of crime and may be punished by up to three years of imprisonment, a fine or correctional labour. Criminal sanctions for defamation, in particular where State authorities are able to initiate complaints, are open to abuse by those in power who seek to silence critical or dissenting voices. Custodial sentences of any length are not a necessary or proportionate punishment for defamation, as the civil law provides a less restrictive and more effective means to provide redress to victims for reputational harm.

Insult and sedition: the Criminal Code includes provisions on insult and several offences relating to sedition.

Article 131 of the Criminal Code prohibits insult, which is defined as "denigration of the honour and dignity of another person in an indecent manner." If committed publicly or with the use of mass media or information communication networks, insult may be punished by a fine of up to 200 monthly calculated indexes, or correctional labour or public works for a period of 180 hours.

Insult laws, to the extent that they seek to protect individuals' feelings or sensitivities rather than reputations, are not compatible with international standards on freedom of expression as there is no right to be free from offence. Such laws are often abused to silence criticism or dissent, in particular the expression of marginalised groups. These provisions may also be applied to protect abstract ideas or symbols from criticism, which is not compatible with international human rights law.[1]

Significantly harsher sentences are available where the person insulted is a state official, and the punishment available increases in proportion to the seniority of that official. Under Article 378, imprisonment of up to 175 days is available for public insult of a state official with the use of mass media or information communication networks. Under Article 373, up to five years of imprisonment is provided for "public insult or other encroachment on the honour and dignity" of the First President of Kazakhstan – Leader of the Nation (a title bestowed on the current President, Nursultan Nazarbayev, in 2010) or for prevention of his "legitimate activities". Similar punishment is provided in Article 375, which concerns insult in relation to the President generally, protecting future Presidents in anticipation of when Nazarbayev is no longer in office.

Articles 373, 375, and 378 fail to meet requirements of international law. As pointed out by the UN Human Rights Committee in General Comment No. 34: "laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned", and international mechanisms on freedom of expression "defamation laws should reflect the importance of open debate about matters of public concern and the principle that public figures are required to accept a greater degree of criticism than private citizens."[2] The new Criminal Code reverses the principle that the more senior the public official, the greater the degree of criticism that they should tolerate. Even absent their application by a Court, the mere existence of the provisions in the criminal code will have a profound chilling effect on the freedom of expression.

Incitement to hatred: Article 174 of the Criminal Code makes it an offence to incite "social, national, ethnic, racial, class or religious hatred", and provides sentences of between 2 and 20 years. Article 183 essentially prohibits the same offence when committed through mass media.

The offence goes far beyond the obligations of States under Article 20(2) of the ICCPR to prohibit any advocacy of racial, national or religious hatred that constitutes incitement to violence, hostility or discrimination. It includes, for example, actions that "demean national honour and dignity or religious feelings of citizens", thus permitting restrictions on expression that may include legitimate criticism of the State or of religions. The categories of individuals protected include grounds not recognised under international law, including "social class" and "class" generally; these provisions have been used in Kazakhstan to protect the ruling classes and elite business owners from criticism. Further, the offence prohibits incitement of hatred, rather than incitement to harmful acts, such as violence, hostility or discrimination, thus allowing for broad interpretation. Thus, rather than protect marginalised groups from harm, it is likely that this provision will be abused to punish minority and dissenting voices while protecting those in power from criticism.

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[1] UN Human Rights Committee, General Comment No. 34, CCPR/C/GC/34, 12 September 2011, at para. 48.

[2] Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, 30 November 2000, available at: http://www.article19.org/data/files/pdfs/igo-documents/three-mandates-dec-2000.pdf. See also: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, A/HRC/20/17, 4 June 2012, at para. 88; European Court of Human Rights (ECtHR), *Lingens v. Austria*, 24 June 1986, Application No. 9815/82, at para. 42.

In view of the inconsistency of Articles 130, 131, 174, 183, 274, 373, 375, 376, 378 of the Criminal Code with Kazakhstan's obligations under the ICCPR, ARTICLE 19 calls on the government to repeal them in their entirety.

Freedom of Peaceful Assembly

The new Criminal Code contains provisions significantly restricting the right to the freedom of peaceful assembly.

Article 400 of the Criminal Code introduces a new concept of "an illegal public event", in addition to the concept of an "an illegal assembly, rally, march, picket, demonstration". All these activities, if illegal, may be punished by a fine in the amount of 300 monthly calculated indexes, correctional labour, public work or imprisonment of up to 75 days.

The law "on the organization and conduction of peaceful assemblies, rallies, marches, pickets and demonstrations in the Republic of Kazakhstan" (the Peaceful Assembly Law) outlines the circumstances under which local executive bodies can determine an event to be illegal and request its termination.

The Peaceful Assembly Law establishes a regime of prior authorisation for conducting assemblies, as opposed to a system of notification. Article 8 provides that an assembly that is not authorised can be terminated. This is against international standards on the right to freedom of peaceful assembly.

The Peaceful Assembly Law also grants unlimited powers to local executive bodies to decide on the time and place of assemblies. Article 4 stipulates that an assembly must be terminated where participants do not comply with the time and place conditions that the authorities have imposed.

ARTICLE 19 calls on the government to remove Article 400 from the Criminal Code as it is inconsistent with the ICCPR, and to reform the Peaceful Assembly Law in order to bring it in line with international standards.

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Human Rights Council
Twenty-eighth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Social Service Agency of the Protestant Church in Germany, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Latest Developments of Crucial Human Rights Situations in India*

I. The Armed Forces (Special Powers) Act (AFSPA) is to be repealed in North Eastern States of India as well as in Jammu and Kashmir.

(1) States are obliged to ensure that all counter-terrorism measures comply with international human rights standards. India has a long history of operating under the Armed Forces (Special Powers) Act of 1958 (AFSPA), established for the Northeast of India in 1958 in order to grant special powers to the Armed Forces in relation to so called "disturbed areas". AFSPA has received fundamental criticism for its adverse impacts on human rights. A number of UN human rights institutions had expressed their concerns on issues such as arbitrary killings, torture, cruel, inhuman and degrading treatment, enforced disappearance, arbitrary deprivation of life, collective punishment, violations of non-derogable process rights or discrimination committed under AFSPA.[1] There is a widespread reign of impunity and a principal denial of victim's rights.[2] Until today, people are killed by State forces and non-state armed forces in Manipur.[3] It is worth remembering that between 2000 and 2014, 548 bombs were detonated in different parts of Manipur state. A number of these bomb blasts coincided time-wise with the decision making process by the government on whether to extend AFSPA in the 'disturbed areas'. The last extension was issued in December 2014 to Manipur, Tripura, Assam, Arunachal Pradesh and others.

(2) Several Commissions constituted by the Government of India urged to repeal AFSPA. Conversely, the Government of India decided not to accept these recommendations made by its domestic institutions. Only due to civil society's commitment was the debate on the human rights violations in the framework of AFSPA brought before the Supreme Court and several lower courts, and also extended to the Indian Parliament. During Winter Session of Indian Parliament (2014/2015), in both Lok Sabha (Lower House) and Rayja Sabha (Upper House), members raised the issue and asked to repeal AFSPA.[4] The Union Home Minister, Mr. Kiran Rijeju, responded that the government would look into the recommendations by the so-called Jeevan Reddy Commission (2005), although there is not much expectation that the government will really deal with the subject. Furthermore, 15 Members of Parliaments from eight states in the North East responded on 3rd of December 2014 to a meeting with civil society stakeholders and affirmed their support for the appeal to repeal AFSPA.

(3) The United NGO-Mission of Manipur (UNMM) therefore requests the UN Human Rights Council to:

- urge the Government of India to finally take a decision at the level of Cabinet Sub-Committee on Security on AFSPA, and to consider the public concern in the decision making process, not only the advice from military side;
- stress the deadlines set by CERD in its recommendations of 2013 and CEDAW in 2014 for dealing with AFSPA;
- encourage the Indian parliament to form a parliamentary committee to look into several reports on that matter, such as of Jeevan Reddy, Second Administrative Reform Committee, Verma Commission and the recommendations by several UN Committees to repeal AFSPA;

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[1] A list can be provided upon request.

[2] Enshrined in the UN Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985 (UNGA resolution 40/34) and further provisions such as UNGA resolution (60/147) on "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" adopted in December 2005.

[3] In September and October 2014, seven persons, including two women, were killed.

[4] For instance by the Indian National Congress party, or the Janata Dal (U) party.

- to communicate with CERD in order to consider and re-establish its urgent action and early warning procedure;

- invite Special Procedures to follow up on their recommendations made to repeal AFSPA and to support legal investigations; such as those of the Special Rapporteur on Human Rights Defenders, the Special Rapporteur of Extrajudicial Execution,[5] the Special Rapporteur on Violence Against Women, its Causes and Consequences[6].

II. Systematic Harassment and Deprivation of Basic Legal Provisions

(4) In November 2000, Ms. Irom Chanu Sharmila went on hunger strike. On 19th of August 2014, the Session Judge of the High Court of Manipur ordered the release of Ms. Sharmila on the basis that she is protesting against AFSPA, and that this form of protest (hunger strike) is not contrary to Art. 309 of the Indian Penal Code, i.e. attempt to commit suicide. However, on Friday, 22nd of August, she was re-arrested by the Indian police referring again to Art. 309. This denial of legal guarantees has happened again and again. It is noteworthy, that Mr. Ghulam Nabi Azad of the State of Andhra Pradesh went on hunger strike for 2 days in 2013 when afterwards the Indian Parliament granted the formation of the new Telangana state. On 22nd of January 2015, the High Court ordered again the release of Ms. Sharmila, regarding the charge of "attempt of suicide" as baseless. Again, she was re-arrested. There are good reasons to conclude that AFSPA detrimentally affects human rights defenders and systematically denies legal forms of protest.

(5) The UNMM requests the UN Human Rights Council:

- to invite the Special Rapporteur on Violence Against Women to urge India to implement the court orders of 19th August 2014 and 22nd January 2015 and, thus, to release Ms. Irom Chanu Sharmila.

III. Ethnic and Social Related Disturbance in Assam

(6) On 23rd December 2014, 81 Adivasi (Members of Scheduled Tribes) were killed in the State of Assam, including women and children, mostly belonging to Christian communities. The Government of India suspects an armed group of committing the massacre while victims highlighted an ambiguous role of the Indian Army.[7] There are further sources saying that the Government of India had informed the Government of Assam beforehand about the possibility of such a massacre, and that the Indian Army was already deployed.[8] The question therefore is why the attack was not prevented. The same day, the Indian police even killed three protestors related to the massacre. Is it a mere incident that on the 3rd of January 2015, the Government of India announced that AFSPA is to be extended for another year in Assam?

(7) The UNMM requests the UN Human Rights Council:

- to invite the Special Rapporteurs on the Rights of Indigenous Peoples as well as on Freedom of Religion or Belief to report on the role of the Indian security forces in failing to protect the lives of the Adivasi. The two Special Rapporteurs may further contribute to appoint an Independent Investigation Team investigating the massacre and to involve the expertise of the Special Rapporteurs.

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[5] On cases such as the extrajudicial execution of Md. Azad Khan (killed in a fake encounter by a combined force on March 4, 2009) and Thangjam Manorama (killed by 17th Assam Rifles in July 11, 2004) whose cases are pending in Supreme Court of India since 2013.

[6] On cases such as rape and murder of Miss Nandeibam Sangita aged of 17 (raped by three personnel of 12 Granadier Riffles on 4th October 2003 and committed suicide on 4th October 2003, Jiribam- Imphal East District), Thangjam Manorama, 2004 (raped and murdered by 17th Assam Rifles), Chanu Rose of Ngaprum Khullen village, Ukhrul (raped by Major Pundir and Captain Nag of 95th BSF on March 4, 1974 and committed suicide on 6th March 1974), Miss Lansophy Tangvah (23 yrs) D/o W. Tangvah of Nungbi Khullen Village, Ukhrul District, Manipur and her aunt AS Dinah, former President of Tangkhul Shanao Long of Ukhrul killed in a bomb blast on 17th September 2014.

[7] See report in the News Life TV Channel of Assam at 7:30 pm on 25th of December 2014.

[8] See statements in the newspaper Assam Tribune of December 25, 2014.

IV. The Legacy of Killing and Disappearance Under AFSPA

(8) On 25 December 2014, eight human skulls and skeletal remains along with other human artifacts were found at the compound of the former Tombisana High School in Imphal (Manipur), about 200 meters west of the Kangla Fort. The Fort served as an Indian military garrison from 1949 to 2005, including for paramilitary forces engaged in counter-insurgency operations, and known for rigorous detention and interrogation, torture and extrajudicial executions of those believed to be involved in struggle for self-determination. Especially families who deplore the disappearance of family members raised the question of whether the Indian Army and paramilitary units might have perpetrated the crimes. There is reason to conclude that a systematic pattern of extrajudicial, summary or arbitrary executions is carried out by Indian security forces in Manipur under AFSPA.

(9) The Anthropology Department of Manipur University estimates that the skeletal remains are between 17 and 40 years old, a timeframe which coincides with high levels of enforced disappearances in Manipur. Human rights organizations speak about 22 cases of enforced disappearances between 1980 –2011 while many more are expected. No action has been taken so far by any State institution in terms of a forensic investigation. The Families of the Involuntarily Disappeared's Association, Manipur (FIDAM) requested the Chief Minister of Manipur to halt the construction work at Tombisana School and to establish an independent inquiry.[9] While the Chief Minister did not take such action, public pressure made the State government hand over the investigation to the Central Bureau of Investigation (CBI),[10] known to be part of the political patronage. The families wish to have fair, impartial and transparent investigations with international forensic, anthropological and archaeological expertise. Unfortunately, the Manipur High Court withdrew such petition arguing that the government had handed over the investigation to the CBI, while in fact the State government had not issued any formal notification of the cabinet decision, nor had they informed the CBI or Government of India after nine full days of such decision.

(10) The UNMM requests the UN Human Rights Council to:

- invite the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and the Working Group on Enforced or Involuntary Disappearances to approach the Government of India requesting fair, impartial and transparent investigations with international forensic, anthropological and archaeological expertise, and to remind the State Government of Manipur of its duties in accordance with Indian law.

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*United NGO-Mission of Manipur, an NGO without consultative status, also shares the views expressed in this statement.

[9] Memorandum of 27th of December 2014.
[10] At 29th of December 2014.

United Nations A/HRC/28/NGO/106

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Human Rights Council
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the European Centre for Law and Justice, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Achieving excellence in perinatal care: babies with illness and disability deserve better than abortion

The Convention on the Rights of Persons with Disabilities states that *'States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children"*. The Convention on the Rights of the Child also states that a child "*needs special safeguards and care, including appropriate legal protection, before as well as after birth*".
Yet studies show that up to 90% of children with disabilities are aborted before birth. In particular, children with life-limiting conditions are subject to discriminatory language and attitudes which deny them their humanity and their human rights.

Discontinuing the phrase 'Incompatible with life'
Unborn children with disabilities are suffering a lethal form of discrimination because they are targeted for abortion, both in law and in practice, simply because of their disabilities. Up to 90% of children with disabilities are aborted before birth. Sometimes the disability is minor and easily correctable such as a cleft palate or a clubbed foot. Other times the baby might have an illness which means he or she may not live for very long after being born. But in all cases these babies are being dehumanized, and their right to life undermined, because they have a physical or genetic disability. This is in contravention of the UN Convention the Right of Persons with Disabilities, which affirms that the right to life of persons with disabilities must be enjoyed on an equal basis with others.

Families who are told that their baby may not live for long after birth need our full support and holistic perinatal care, but this only be achieved if misleading and offensive language and attitudes are discontinued. We are calling to ending the misinformation, which is confusing and hurting parents, and denying children with illness and disability the care they deserve.

The Declaration on Perinatal Care is a global statement from medical practitioners and researchers who affirm that the term, "incompatible with life", is not a medical diagnosis and should not be used to describe an unborn baby who has received a diagnosis which means they may not live for very long after birth.

The Declaration calls for an end to the use of this medically meaningless term which can cause great upset to the parents of children who are given a life-limiting diagnoses but who all too often live for hours, days, weeks and even years after birth and bring much joy to their families. Parents who are told their baby may not live for very long should be offered the full comfort and support of Perinatal Hospice services, before and after birth to help them through this difficult time - and their children are fully entitled to the option of medical intervention for babies who may benefit. Society should recognize that a terminal illness or disability does not diminish the right to life of the child.

Discrimination in law and practice
The UN's World Abortion Policies report 2011 shows that 84% of developed countries permit abortion because the baby has a disability or a 'foetal impairment' and that, globally, almost 50% of countries take this position.
The effects have been dramatic. Studies show that up to 90% of unborn children with disabilities ranging from Down Syndrome to anencephaly have their lives terminated before birth.

A 2013 article published in the *American Journal of Medical Genetics* found that 94% of parents given a diagnosis of Trisomy 13 or 18 were told their baby would not live after birth, although,as we will see, that is not the case with these conditions. 61% of parents said they came under pressure to abort, 55% were told that their child would be a vegetable,

28% that their baby would destroy their family or their marriage. Some parents were told that that their Obstetrician would refuse to continue seeing them if they did not abort.

Fatally Flawed language

It should be noted that the phrase 'incompatible with life' is not a medical diagnosis. A 2012 study entitled *'Fatally Flawed?'* published in the *British Journal of Obstetrics and Gynaecolgy (BJOG)* similarly found that the term 'lethal anomaly' is not a medical prognosis and should not be used in counselling parents facing a diagnosis of severe malformation for their unborn child. The authors, who work in the field of newborn intensive care and in counselling, said that the term hindered clear communication, and should be avoided in counselling. Crucially, they pointed out that "prenatally diagnosed abnormalities that are associated with death in the newborn period are often referred to as 'lethal malformations'. Yet, for many of the commonly described lethal malformations long-term survival is possible if supportive interventions are provided.

In a discussion entitled *'The Language Of Lethality'*, the authors examine the use of the term 'lethal', and consider the published literature, accounts of parents, and their own experience and conclude that "a significant proportion of practitioners do use this or related terminology." They identified several reasons for this:

1. Practitioners may mistakenly believe that conditions [such as Trisomy 18] are not compatible with survival beyond the newborn period.

2. A second potential reason is a discomfort with uncertainty, or a desire to make decision-making simpler. The authors write that "It is potentially easier for women to come to terms with termination of pregnancy or with palliative care if they are told that survival is impossible, and it may be easier for professionals to make and rationalise such decisions."

3. A third possibility is that doctors make a judgment call on the 'quality of life' of another person – has certainly been the experience relayed to us by parents who have faced a diagnosis of a severe abnormality. Parents and their babies deserve better than judgment and a nudge towards abortion.

The authors of 'Fatally Flawed' also found that, having searched the published literature, no agreed definition of a 'lethal fetal or congenital malformation' existed, nor could they "identify an agreed list of conditions that fit into this category".

The study was published just weeks after new research by Dr Anne Janvier of the University of Montreal found that almost all families of children with Trisomy 13 and 18 reported that their time together was happy and rewarding overall. The research, published in the peer-reviewed journal , Pediatrics, found that over 97% of the parents interviewed considered that their child was happy and its presence enriched the life of their family and their life as a couple regardless of longevity.

It should also be noted that the phrase 'incompatible with life' misinforms parents because it denies them full information regarding the condition diagnosed for their child. In contrast to public perception, research shows that children with even the most severe disabilities usually live beyond birth.

A recent study published in the *British Journal of Obstetrics and Gynaecology* found that 72% of babies with anencephaly lived for a short time after birth. Of those children, 25% lived up to 5 days, while up to 7% lived up to 28 days after birth. Studies have found that the average duration of survival for children who lived until birth with Trisomy 18 was 14.5 days; with 39% of babies surviving for more than a month, while 8.4% survived for more than a year. Research has also found that children with Trisomy 13 or Patau's Syndrome live on average for 7 days after birth, while almost 31% live for more than a month, and almost one in 10 live for more than a year.

These conditions are currently being described as 'incompatible with life', words with are medically meaningless, offensive and discriminatory. This declaration aims to discontinue this phrase and to end this lethal discrimination against children, before and after birth, because of a diagnosed disability.

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*Every Life Counts, Ireland, an NGO without consultative status, also shares the views expressed in this statement.

United Nations A/HRC/28/NGO/107

General Assembly

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Human Rights Council
Twenty-eighth session
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Defence for Children International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmentalrganization(s).

Israel's armed forces and grave violations of children's rights in Gaza

While children affected by armed conflict are entitled to special respect and protections under international law, Israeli armed forces have regularly been implicated in serious, systematic and institutionalized human rights violations against Palestinian children living in the Occupied Palestinian Territory.[1]

More than half of Gaza's 1.8 million residents are children under the age of 18. These children continue to pay the highest price for Israel's repeated military offensives on Gaza. There is ample evidence to demonstrate that Israel's armed forces have committed acts that amount to violations of international humanitarian law and grave violations against children during armed conflict as defined by UN Security Council resolutions, including killing or maiming children and attacks against schools and hospitals.

On July 8, 2014, Israeli forces began an intensive aerial and naval bombing campaign on the Gaza Strip with a ground incursion commencing on July 17, 2014. Israel's military offensive, known as "Operation Protective Edge", was characterized by attacks directed at government and civilian infrastructure, residential neighbourhoods, and individual civilians. The incursion lasted 50 days and caused grave devastation to the Gaza Strip.

During Operation Protective Edge, Israeli armed forces carried out direct attacks on civilian homes and other civilian buildings, including schools, causing a large number of civilian casualties, including children.[2] Israeli forces killed over 500 Palestinian children and another 3,374 children were injured in attacks throughout Gaza.[3]

In a number of incidents documented by Defence for Children International-Palestine (DCI-Palestine), children were killed by drone-fired missiles in circumstances that suggest direct targeting by Israeli forces. Around 4:30 p.m. on 10 July, an Israeli aerial drone reportedly fired a missile at a five-year-old boy while he stood alone on the open rooftop of his family's home in Deir Al Balah, Central Gaza. At the time of the explosion the boy's father had seen an aerial drone in the sky, and limited damage to the roof suggested a drone-fired missile killed the boy. On 23 July, around 9:00 a.m., after an artillery shell struck nearby, a drone-fired missile killed one nine-year-old boy as he and his mother returned to their home in Um Nasr, North Gaza, to collect some belongings. They had been sheltering in an UNRWA school located in Beit Lahiya. As they left their village and headed back to the school, an Israeli drone-fired missile struck the boy, dismembering and killing him. Around 7:30 a.m. on 29 July, an Israeli aerial drone-fired missile struck the kitchen balcony of a residential apartment in Deir Al Balah, Central Gaza, where a four-year-old boy was playing. The missile directly hit the boy, dismembering parts of his body and killing him on impact. At the time of the attacks, there were no reports of military activity near the homes.

Additionally, children sheltering at schools were killed when artillery shells landed on and near school premises, according to documentation by DCI-Palestine. On 24 July, around 3:00 p.m., artillery shells struck an UNRWA-run school in Beit Hanoun, North Gaza, killing six children, including three from one family. At the time of the attack, individuals sheltering at the school were reportedly queuing in the courtyard of the school waiting for buses to relocate them due to safety concerns. The location of the school was reportedly provided to Israeli forces by UN staff on 12 separate occasions, and no military activity was reported in the immediate vicinity of the school at the time of the

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[1] *See* Committee on the Rights of the Child, Concluding observations on the second to fourth periodic reports of Israel, U.N. Doc. CRC/C/ISR/CO/2-4 (Jul. 4, 2013), http://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf; Human Rights Committee, Concluding observations on the fourth periodic report of Israel, U.N. Doc. CCPR/C/ISR/CO/4 (Nov. 21, 2014), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/225/55/PDF/G1422555.pdf; and Report of the United Nations Fact Finding Mission on the Gaza Conflict, U.N. Doc. A/HRC/12/48 (Sep. 25, 2009), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/158/66/PDF/G0915866.pdf.

[2] UNICEF, *CAAC Bulletin on escalation of the conflict in East Jerusalem, Gaza and southern Israel July & August 2014* (Oct. 3, 2014), http://www.unicef.org/oPt/Jul-Aug_2014_-_CAAC_Bulletin_03-OCT_-_Final.pdf.

[3] UN OCHA, Situation Report, (Sept., 4, 2012), http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf.

attack. On 30 July, around 5:00 a.m., several artillery shells struck the UNRWA-run Jabalia Elementary Girls School A & B killing three boys, aged between 15 and 17 years, which were sheltering there with other IDPs. The location of the school was provided to Israeli forces by UN staff on 17 separate occasions, and no military activity was reported in the vicinity of the school at the time of the attack. Furthermore, 22 schools were completely destroyed and 118 damaged by the violence.[4]

The prohibition of targeting and killing and maiming civilians, including children, as well as the right to life are fundamental principles enshrined in international humanitarian law and international human rights law. However, protections as well as justice and accountability remain elusive for children living in the Occupied Palestinian Territory. Instead of growing up with a law-based, negotiated settlement founded on universal human rights principles, justice and respect for human dignity; Palestinian youth have had their futures stifled and suppressed by systemic discrimination and prolonged military occupation.

While Israeli authorities have selectively opened their own investigations into several incidents occurring during the military offensive, previous experience has shown that Israeli authorities are incapable of conducting serious, independent and impartial investigations into grave human rights violations against Palestinian children.[5]

The Commission of Inquiry on the Gaza Conflict was established by the Human Rights Council to investigate all violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory. The Commission was charged with establishing "facts and circumstances of such violations and of the crimes perpetrated and to identify those responsible, to make recommendations, in particular on accountability measures, all with a view to avoiding and ending impunity and ensuring that those responsible are held accountable."[6]

To the extent that the Commission finds evidence of violations of international humanitarian law and international human rights law, serious and effective follow-up mechanisms must be endorsed by all members of the Human Rights Council in an effort to challenge and end impunity for violations.

In order to end impunity for perpetrators and advance the goal of protecting children during armed conflict, Defence for Children International urges all members of the Human Rights Council to:

- Support resolutions that affirm any findings by the Commission of Inquiry on the 2014 Gaza Conflict involving violations of international humanitarian and international human rights law;

- Support recommendations regarding follow-up accountability measures made by the Commission of Inquiry on the 2014 Gaza Conflict concerning findings involving violations of international humanitarian law or international human rights law, including any requests to the Security Council for referral of specific cases to the International Criminal Court; and

- Call on the Secretary-General to include Israel's armed forces in the annex of his 14th Annual Report on Children and Armed Conflict for committing grave violations against children during armed conflict, specifically killing and maiming and attacks against schools.

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[4] *Id.*

[5] ADALAH, *Report submitted to the U.N. Independent Commission of Inquiry on the 2014 Gaza Conflict* (Jan. 31, 2015, http://www.adalah.org//uploads/1_Adalah-Submission-UN-COI-Gaza-2015.pdf.

[6] H.R.C. Res. S-21/1, ¶ 13, U.N. Doc. A/HRC/RES/S-21/1 (Jul. 24, 2014), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/092/50/PDF/G1409250.pdf.

United Nations A/HRC/28/NGO/108

General Assembly

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Human Rights Council
Twenty-eighth session
Agenda item 8
Follow-up to and implementation of the Vienna Declaration and Programme of Action

Written statement* submitted by the Asian-Eurasian Human Rights Forum, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 January 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Human Rights of Women

Honorable Chairperson,

About 250 internally displaced women from Indian administered part of the State of Jammu and Kashmir, who had sought safety in the capital city of Delhi in the aftermath of their exodus owing to terrorist attacks on their religious minority community in their places of origin in 1990, were provided with temporary employment as trained graduate and post-graduate teachers in the Education Department of Delhi Administration.

We appreciate Government of India's humanistic approach to their plight by providing them succor at a critical time in their lives.

It is the 24th year of their exile. All these years they remained temporarily employed. Unfortunately these internally displaced persons have been discriminated against in a number of ways in terms of service conditions. . Their service in Delhi administration has not been regularized; they are made to work on temporary basis almost like daily wagers which deprives them of various benefits like pension, provident fund, health care, etc. while these and many more benefits are admissible to teachers of regular category in the same department. They are not even granted maternity leave while their colleagues in the same institutions enjoy that privilege.

These teachers are paid less than half of what their equals with same qualification and equal work load are paid by way of monthly salary by the Delhi administration.

When they retire from service after having put long tenure of more than 25 years or more, they receive no pension, no gratuity, no provident fund, and no leave salary while their colleagues with same qualification and quantum of work receive all these benefits that make their post-retirement life comfortable.

When they go home after rendering 25 or 30 years of service, they go empty handed. It is worst type of exploitation as they have nothing to fall back upon.

Meting out discriminatory treatment to them contravenes the clauses of the Convention on Elimination of All Forms of Discrimination against Women incorporated in Beijing Declaration announced on the occasion of the 4th World Conference on Women.

The convention states: "Equal rights of men and women are explicitly mentioned in the Preamble to the Charter of United Nations. All the major international human rights include sex as one of the grounds upon which states may not discriminate."

Item 225 of the Convention on the Elimination of All Forms of Discrimination against Women stipulates: "Many women face additional barriers to the enjoyment of their human rights because of such factors as their race, language, ethnicity, culture, religion, desirability or socio-economic class or because they are indigenous people, migrants, displaced women or refugees."

Again item 226 says: "The factors that cause the flight of refugee women, other displaced women in need of international protection and internally displaced women may be different from those affecting men. These women continue to be vulnerable to abuses of their human rights during and after their flight."

Honorable Chairperson, the condition of some of these internally displaced persons who worked for twenty-five years or more as temporary teachers is miserable as they have nothing to fall back upon. During the prime of their youth, they served the nation in their humble way making all possible sacrifices. But at the sunset of their lives, they are left empty handed. It is unjust.

The worst part of the story is that their discrimination took place when the Chief Minister of the Indian State of Delhi was a woman namely Mrs. Sheila Dixit, who has been exceptionally harsh towards them.

We are familiar with their plight. Through your good offices, we entreat the Government of India that as a signatory to the Convention on Elimination of All Forms of Discrimination against Women, it should consider the case of 250 trained graduate and post graduate teachers, who are victims of ethnic cleansing in Kashmir, be brought at par with regularized teachers in respect of pension and related service benefits. They have to fend for their families and they expect civil society to be generous and sympathetic to their plight.

Our organization has closely interacted with these helpless persons and understood their problem. We, therefore, request that the Government of India is prompted to consider their case in the light of following suggestions:

All such teachers as fall under the category of Kashmir migrant teachers are regularized by the Education Department of Delhi administration. They are entitled to pension, general provident fund/cumulative provident fund/ healthcare assistance, house rent allowances, dearness allowances and other perks. Those who have attained superannuation as "migrant teachers" are entitled to pension benefits at par with all other categories of teachers in Delhi administration. Arrears of emolument on account of difference of authorized and actual payments and pension with retrospective effect (from the date of superannuation) are sanctioned in their favour.

We regret to say that these 250 odd teachers have been discriminated against on account of gender and their displacement. Their human rights have been blatantly violated on these two counts.

Moreover their helplessness caused by government's failure to provide them protection of life and honour in their original habitats as stipulated in the Indian Constitution, has been exploited by the Delhi administration by not regularizing them, paying them just one third of the authorized salary as against regular teachers, denying them promotion, pension and other service